

# **EXHIBIT I**

**FILED UNDER SEAL**

1 CLEMENT SETH ROBERTS (STATE BAR NO. 209203)  
2 croberts@orrick.com  
3 BAS DE BLANK (STATE BAR NO. 191487)  
4 basdeblank@orrick.com  
5 ALYSSA CARIDIS (STATE BAR NO. 260103)  
6 acaridis@orrick.com  
7 EVAN D. BREWER (STATE BAR NO. 304411)  
8 ebrewer@orrick.com  
9 ORRICK, HERRINGTON & SUTCLIFFE LLP  
10 The Orrick Building  
11 405 Howard Street  
12 San Francisco, CA 94105-2669  
13 Telephone: +1 415 773 5700  
Facsimile: +1 415 773 5759

14 SEAN M. SULLIVAN (*pro hac vice*)  
15 sullivan@ls3ip.com  
16 COLE RICHTER (*pro hac vice*)  
richter@ls3ip.com  
17 LEE SULLIVAN SHEA & SMITH LLP  
18 656 W Randolph St., Floor 5W  
19 Chicago, IL 60661  
Telephone: +1 312 754 0002  
Facsimile: +1 312 754 0003

20 *Attorneys for Defendant Sonos, Inc.*

21 UNITED STATES DISTRICT COURT  
22 NORTHERN DISTRICT OF CALIFORNIA  
23 SAN FRANCISCO DIVISION

24 GOOGLE LLC,  
25 Plaintiff and Counter-defendant,  
26 v.  
27 SONOS, INC.,  
28 Defendant and Counter-claimant.

Case No. 3:20-cv-06754-WHA  
Related to Case No. 3:21-cv-07559-WHA

**REBUTTAL EXPERT REPORT OF  
DR. KEVIN C. ALMEROOTH FOR  
“PATENT SHOWDOWN”**

1       194. Second, the Sonos Forums reference, as a whole, does not qualify as prior art under  
2 §102(b). Specifically, I understand that the “Macro / presets” thread does not qualify as prior art  
3 under §102(b) because it was not published more than one year before the claimed priority date of  
4 September 12, 2006. As acknowledged by Dr. Schonfeld, the earliest post from the “Macro /  
5 presets” thread is dated September 22, 2005, which is not more than one year before the claimed  
6 priority date. Schonfeld Op. Report at ¶ 122; GOOG-SONOS-WDTX-INV-00015877 at 877.

7       195. Similarly, Dr. Schonfeld has relied on several posts from the “virtual zones and  
8 zone grouping” thread that do not qualify as prior art under §102(b) because they were not  
9 published more than one year before the claimed priority date. In fact, there are only 5 posts from  
10 the “virtual zones and zone grouping” thread (reproduced above) that could qualify as prior art  
11 under §102(b), since every other post from that thread is dated no earlier than April 18, 2006. *See*  
12 GOOG-SONOS-WDTX-INV-00015870.

13       196. Moreover, I understand that a claimed invention cannot be anticipated or rendered  
14 obvious by a prior art reference if the disclosures of that reference that are cited as alleged prior  
15 art are not enabled. Although some aspects of the idea behind a “zone scene” may be disclosed in  
16 these threads, I do not find these threads enabling. Indeed, these threads are nothing more than a  
17 wish list – they do not enable a POSITA as to how a “virtual zone” or saved “Zone links as  
18 favorites” could be implemented. *Id*; GOOG-SONOS-WDTX-INV-00015877 at 877. Without  
19 such enablement, the Sonos Forums reference does not qualify as prior art to claim 1 of the ’885  
20 Patent.

21       197. Third, it is my opinion that the Sonos Forums reference does not qualify as prior  
22 art under §102(f). In this regard, it is my opinion that Dr. Schonfeld has failed to establish both  
23 (1) prior conception of the invention by another from the Sonos Forums, which must be a complete  
24 conception of the claimed invention, and (2) communication of that prior conception to the named  
25 inventor that is sufficient to enable him to construct and successfully operate the claimed invention,  
26 which I understand are required under §102(f).

27       198. In particular, Dr. Schonfeld has failed to establish prior conception of the invention  
28 by another from the Sonos Forums. Notably, Dr. Schonfeld is only relying on the Sonos Forums

1 of creating the “zone group.” However, this “All Zones-Party Mode” option also did not meet the  
2 requirements of a “zone scene,” for several reasons.

3 312. First, because the “All Zones-Party Mode” option was hard-coded into the Desktop  
4 Controller and Sonos Controller software, it was not a user-created, customized group that was  
5 “predefined” and “previously-saved” at a user’s request as part of an initial “setup” phase, which  
6 is a required aspect of a “zone scene.” Case No. 20-6754, D.I. 309 at 4 (the Court finding that “the  
7 ’885 Patent allows a *user to customize* and save multiple groups of smart speakers or other players  
8 . . . and then later ‘activate a customized group, called a ‘zone scene,’ on demand), 8 (the Court  
9 noting that the “basic purpose of the invention . . . is to allow *users to pre-save customized speaker*  
10 *groups* and later ‘invoke’ the named group on demand”), 12 (the Court finding that “[t]he claimed  
11 ability to customize and save overlapping speaker groups and easily control group playback  
12 represents a clear technological improvement over the ‘conventional multi-zone audio system,’  
13 which, as the specification explained, presents significant technological and physical obstacles to  
14 forming speaker groups”).

15 313. Second, because the “All Zones-Party Mode” option was hard-coded into the  
16 Desktop Controller and Sonos Controller software, the ZonePlayers in a Sonos system were also  
17 never “added” to the “All Zones-Party Mode” option by a user via a “network device” in advance  
18 of that “All Zones-Party Mode” option being selected, which is another required aspect of a “zone  
19 scene.” In fact, the evidence I have reviewed shows that the ZonePlayers in a Sonos system were  
20 never even aware that the “All Zones-Party Mode” option existed – it was exclusively a controller-  
21 side concept that provided an alternative workflow for a user to create a new “zone group.”<sup>9</sup> Thus,  
22 a “zone group” that was created using the “All Zones-Party Mode” option was no different than a  
23 temporary “zone group” using the other ad-hoc grouping process. Indeed, in both cases, a  
24 ZonePlayer that was added to the “zone group” by the user would receive the same message (a  
25 SetAVTransportURI message containing a URI argument set to “x-rincon:<GROUP  
26

27 <sup>9</sup> For this same reason, and as explained further below, a ZonePlayer in Sonos’s 2005 system would have  
28 never received any “indication” that it “has been added” to the “All Zones-Party Mode” option, as  
required by limitations 1.6-1.7.

1 COORDINATOR UUID>") and would then automatically configure itself for synchronous  
2 playback as part of that "zone group" during the limited period of time that the "zone group" was  
3 activated, after which time the "zone group" would be destroyed.

4 314. Thus, for at least these reasons, it is my opinion that the "All Zones-Party Mode"  
5 option provided by Sonos's 2005 system was merely just a different way to create a "zone group,"  
6 and also does not constitute a "zone scene." *See also* SONOS-SVG2-00026839-58 at SONOS-  
7 SVG2-00026840 (explaining that the "Zone Scene feature" is "similar to the current Party Mode  
8 setting that is available" but that "*the Zone Scenes feature is much more flexible and powerful*").

9 315. I further note that the Sonos 2005 User Guide never uses the term "zone scenes" or  
10 otherwise describes any technology that would have enabled a user to (i) first create a group of  
11 ZonePlayers that was "predefined" and "previously-saved" in advance of being activated and then  
12 (ii) later select that group for "invocation" in order to activate it, which further confirms that the  
13 ZonePlayers in Sonos's 2005 system did not have the capability to be added to a "zone scene."<sup>10</sup>

14 316. I have also seen various other Sonos documents confirming that the ZonePlayers in  
15 Sonos's 2005 system did not have the capability to be added to a "zone scene." As one example,  
16 in an April 2005 email chain between Sonos employees Rob Lambourne (inventor of the '885  
17 Patent) and Andrew Schulert, Mr. Schulert notes that "one of the problems with our system is we  
18 don't have a way of permanently linking zones together." SONOS-SVG2-00026888. In response,  
19 Mr. Lambourne proposes a feature that would "[a]llow a user to save Zone Profiles" that "would  
20 allow a user . . . to put their Zones into predefined groups..." *Id.* Mr. Schulert's comments noting  
21 that the current Sonos system does not have a way to create "permanent" groups and Mr.  
22 Lambourne's proposal to add a "predefined groups" feature in April 2005 further confirms to me  
23 that the ZonePlayers in Sonos's system at this time did not have the capability to be added to a  
24 "zone scene."

25 317. As another example, entries in Mr. Lambourne's notebook dated October-

26  
27 <sup>10</sup> The evidence I have reviewed also confirms that there was no ability for a user to creating a "zone  
28 group" in Sonos's 2005 system that was "according to a common theme," such as by assigning it a name,  
which fails to meet the requirements of Google's proposed construction of a "zone scene."

1           **3. Sonos's 2005 System Did Not Meet Limitations 1.5 / 1.6**

2       341. Limitation 1.5 / 1.6 of the '885 Patent require the "first zone player" to be  
3 programmed with the capability for, "while operating in a standalone mode in which the first zone  
4 player is configured to play back media individually in a networked media playback system  
5 comprising the first zone player and at least two other zone players," "(i) receiving, from a network  
6 device over a data network, a first indication that the first zone player has been added to a first  
7 zone scene comprising a first predefined grouping of zone players including at least the first zone  
8 player and a second zone player that are to be configured for synchronous playback of media when  
9 the first zone scene is invoked."

10       342. In my opinion, Sonos's 2005 system did not meet this requirement.

11       343. As explained above, the evidence I have reviewed establishes that the ZonePlayers  
12 in Sonos's 2005 system did not have any capability to be added to a "zone scene" comprising a  
13 "predefined grouping of zone players . . . that are to be configured for synchronous playback of  
14 media when the . . . zone scene is invoked," and for this reason alone, a ZonePlayer in Sonos's  
15 2005 system did not have the capability to "receiv[e], from a network device over a data network,  
16 a first indication that the [ZonePlayer] has been added to a first zone scene comprising a first  
17 predefined grouping of [ZonePlayers] including at least the [recipient ZonePlayer] and a second  
18 [ZonePlayer] that are to be configured for synchronous playback of media when the first zone  
19 scene is invoked."

20       344. Additionally, with respect to the hard-coded "All Zones-Party Mode" option  
21 identified by Dr. Schonfeld above, in addition to the fact that it was not a "zone scene" as explained  
22 above, a ZonePlayer would have never received any "indication" that it "has been added" to "All  
23 Zones-Party Mode" option, as required by limitation 1.6.

24       345. Despite the clear absence of any "zone scenes" capability from Sonos's 2005  
25 system, Dr. Schonfeld opines at paragraph 214 that Sonos's 2005 system discloses limitation 1.6,  
26 and while not entirely clear, this opinion appears to be based on a theory that a ZonePlayer in  
27 Sonos's 2005 system would have received "a first indication that the [ZonePlayer] has been added  
28 to a first zone scene . . ." from a Sonos controller when a user added the ZonePlayer to a new "zone

1       359. First, as I explained above, the evidence I have reviewed establishes that the  
2 ZonePlayers in Sonos's 2005 system did not have any "zone scenes" capability at all, let alone any  
3 capability to receive the claimed "first indication that the first zone player has been added to a first  
4 zone scene" or the claimed "second indication that the first zone player has been added to a second  
5 zone scene." For these same reasons, the ZonePlayers in Sonos's 2005 system fail to meet either  
6 the "*after receiving the first and second indications*, continuing to operate in the standalone mode  
7 . . ." aspect of limitation 1.8 or the "continuing to operate in the standalone mode *until a given one*  
8 *of the first and second zone scenes has been selected for invocation*" aspect of limitation 1.8.

9       360. Second, even setting aside the other fundamental differences between a "zone  
10 group" and a "zone scene," the evidence I have reviewed shows that a ZonePlayer in Sonos's 2005  
11 system did not have the capability to "continu[e] to operate in the standalone mode" after receiving  
12 an indication that it has been added to a "zone group." Instead, a ZonePlayer in Sonos's 2005  
13 system was programmed such that, after receiving an AVTransportURI message for a "zone  
14 group," the ZonePlayer would automatically transition from operating in "standalone mode" to  
15 operating in accordance with the "zone group" by automatically configuring itself for synchronous  
16 audio playback as part of the "zone group," which would disable the ZonePlayer's capability to  
17 engage in individual audio playback until the ZonePlayer was subsequently removed from the  
18 "zone group." This functionality is confirmed by the Sonos 2005 User Guide, the source code for  
19 Sonos's 2005 system, and my discussions with Mr. Millington.

20       361. Despite the clear absence of this functional capability from Sonos's 2005 system,  
21 Dr. Schonfeld opines in paragraph 263 of his Opening Report that Sonos's 2005 system discloses  
22 claim limitation 1.8 and then sets forth various theories in an attempt to support this opinion. *See*  
23 Schonfeld Op. Report at ¶¶ 263-273. However, nothing in Dr. Schonfeld's Opening Report alters  
24 my opinion that the ZonePlayers in Sonos's 2005 system did not have the functional capability  
25 required by limitation 1.8.

26       362. For instance, at paragraphs 266-267 of his Opening Report, Dr. Schonfeld says that  
27 "Sonos argues that having a 'zone scene' that is not automatically activated discloses the limitation  
28 [1.8]" and that "under Sonos's understanding of the claims," the "All Zones-Party Mode" option

1 discloses limitation 1.8 under the theory that it “exists at all times because it is a default ‘zone  
2 scene’ and therefore it exists prior to it being ‘invoked’ as claimed.” Schonfeld Op. Report at ¶¶  
3 266-267. However, this theory is flawed for several reasons.

4 363. First, as I explained above, the “All Zones-Party Mode” option is not a “zone scene”  
5 as described and claimed in the ’885 Patent. Thus, whether or not the “All Zones-Party Mode”  
6 option is “automatically activated” is not relevant to limitation 1.8, which requires the “first zone  
7 player” to “continu[e] to operate in the standalone mode” after receiving two different  
8 “indications” that it has been added to two different “zone scenes.”

9 364. Second, even setting aside the other fundamental differences between the “All  
10 Zones-Party Mode” option and a “zone scene,” Dr. Schonfeld fails to identify any message  
11 received by a ZonePlayer in Sonos’s 2005 system that could possibly qualify as a “first indication  
12 that the [ZonePlayer] has been added to” the “All Zones-Party Mode” option prior to the time  
13 when the “All Zones-Party Mode” option was “selected for invocation,” as required by claim 1 of  
14 the ’885 Patent. This failure by Dr. Schonfeld is not surprising because, as explained above, there  
15 is no such “indication” that would have ever been received by a ZonePlayer for the “All Zones-  
16 Party Mode” option, which was hard-coded into the Desktop Controller and Sonos Controller  
17 software.

18 365. Third, in addition to these flaws with Dr. Schonfeld’s reliance on the “All Zones-  
19 Party Mode” option, Dr. Schonfeld fails to identify any “second zone scene” to which a ZonePlayer  
20 could have been added or any “second indication that the [ZonePlayer] has been added to a second  
21 zone scene” that would have been received by the ZonePlayer prior to the time when one of the  
22 “zone scenes” was “selected for invocation,” as required by claim 1 of the ’885 Patent.

23 366. Turning to paragraph 268-269 of his Opening Report, Dr. Schonfeld states that “the  
24 figures that Sonos relies upon to show this claim limitation was disclosed in the ’885 Patent are  
25 very similar to the same user interface used in the Sonos System” and “[t]he user interface of the  
26 Sonos System allows Zones to be grouped together (or ungrouped) in nearly the same manner.”  
27 Schonfeld Op. Report at ¶¶ 268-269.

28 367. However, as an initial matter, I fail to see how this statement regarding the alleged

1 sources" in Sonos's 2005 system. Moreover, even if one were to have recognized a desire for  
2 "greater flexibility in assigning and updating group coordinators and channel sources," I fail to see  
3 how that would have motivated a POSITA in 2005-06 to modify Sonos's 2005 system in the many  
4 ways that would have actually been required to achieve the claimed invention.

5 418. Finally, because there is no evidence that a POSITA in 2005-06 would have been  
6 motivated to modify Sonos's 2005 system in the many ways proposed by Dr. Schonfeld, it appears  
7 that Dr. Schonfeld has used the asserted claims as a roadmap to reach his conclusion that a POSITA  
8 would have found the claimed invention obvious based on Sonos's 2005 system, which I  
9 understand to be improper.

10 419. Thus, for these reasons, it is my opinion that claim 1 of the'885 Patent is not  
11 rendered obvious by Sonos's 2005 system alone.

12 **9. Sonos's 2005 System Combined with Sonos Forums**

13 420. In his Opening Report, Dr. Schonfeld opines that claim 1 of the'885 Patent is  
14 rendered obvious by Sonos's 2005 system in combination with the Sonos Forums. *See* Schonfeld  
15 Op. Report at ¶¶ 6, 230. I disagree – in my opinion, claim 1 of the'885 Patent is not rendered  
16 obvious by Sonos's 2005 system in combination with the Sonos Forums, and Dr. Schonfeld's  
17 opinion to the contrary is flawed for several reasons.

18 421. First, as discussed above, the Sonos Forums reference, as a whole, does not qualify  
19 as prior art under §102 (a), (b), or (f). *Supra* Section XI.B.

20 422. Second, Dr. Schonfeld is only relying on the Sonos Forums to make up for the  
21 deficiencies of Sonos's 2005 system with respect to limitation 1.6, but as explained above, Sonos's  
22 2005 system did not meet several other limitations of claim 1, including limitations 1.7-1.10. Thus,  
23 even if one were to accept Dr. Schonfeld's opinions regarding the combination of Sonos's 2005  
24 system with the Sonos Forums, claim 1 still would not be rendered obvious by that combination.

25 423. Third, the Sonos Forums reference fails to disclose or suggest a "first zone player"  
26 that is programmed with the functional capability required by limitation 1.6 for various reasons.  
27 For instance, Dr. Schonfeld relies solely on the following two posts from the Sonos Forums for  
28 limitation 1.6:

1 Macro / presets  
2

3 16 years ago • 61 replies • 15122 views  
4

5 22 September 2005  
6

7 J JeffT Trending Lyricist I • 20 replies  
8

9 Just got the intro bundle, and I am impressed. I did a search and did not find this suggested, but I  
10 would save Zone links as favorites. With only 2 ZPs it is not a problem yet, but when I add more it  
11 maybe. I would like to setup say Morning mode for the units I want in the morning and a preset  
12 volume between the units. Another example I would have 2 party modes, Summer and Winter. The  
13 Summer mode would include the deck speakers and the Winter mode would not. Also it would be  
14 nice to have playlists or radio station associated with each mode. So when I get up I press Morning  
15 the DI Chill radio station plays.

16 Jeff  
17

18 Virtual Zones and Zone Grouping  
19

20 17 years ago • 190 replies • 45480 views  
21

22 27 February 2005  
23

24 T theboyg Avid Contributor I • 22 replies  
25

26 This "link/unlink" business is really cumbersome - and not a joy to use which goes against the ease  
27 of use of the rest of the system.

28 Why can't I have a virtual zone - ie a zone called "Downstairs" - and I can group all my downstairs  
29 zones into this. Then I dont have to keep manually linking/unlinking multiple zones everytime.

30 PLEASE !  
31

32 G.  
33

34 Schonfeld Op. Report ¶ 230 (citing Farrar Dep. Exs. 6, 8). Dr. Schonfeld never goes on to explain  
35 how the foregoing posts from the Sonos Forums purportedly satisfy limitation 1.6, but regardless,  
36 I disagree that the foregoing posts disclose or suggest the claimed "zone scenes" functionality  
37 required by limitation 1.6 and the other surrounding language.

38 424. As explained above, a claimed "zone scene" requires a group of "zone players" that  
39 (i) is "predefined" and "previously-saved" at a user's request in advance of the group being  
40 activated for synchronous playback as part of an initial "setup" phase during which the group  
41 members are "added" to the "zone scene" by a user using a "network device" (*i.e.*, a controller  
42 device) and (ii) initially exists in an inactive state such that the "zone players" added to the "zone  
43 scene" are "to be configured for synchronous [media] playback" at a future time when the group  
44 is invoked, but do not change their operating mode for audio playback at the time of creation and

1 can thereafter be used for individual audio playback while the “predefined,” “previously-saved”  
2 group remains in existence and is available to be “selected for invocation” in the future. The  
3 foregoing posts’ high-level discussion of a “mode” or a “virtual zone” fails to meet all of these  
4 requirements. For instance, the foregoing posts do not mention a group being “predefined” and  
5 “previously-saved” at a user’s request *in advance of the group being activated for synchronous*  
6 *playback* as part of an initial “setup” phase, nor does it mention a group that *initially exists in an*  
7 *inactive state* such that the “zone players” added to the “zone scene” are “to be configured for  
8 synchronous [media] playback” at a future time when the group is invoked, but do not change their  
9 operating mode for audio playback at the time of creation.

10       425. Further, the foregoing posts do not disclose or suggest the claimed capability of the  
11 “first zone player” to be added to multiple different “zone scenes” that are then both in existence  
12 and available to be “selected for invocation” at a later time.

13       426. Further yet, the foregoing posts do not disclose or suggest any particular  
14 functionality for creating a “mode” or a “virtual zone,” let alone the claimed functionality whereby a  
15 “zone player” is programmed with the capability to, “while operating in a standalone mode,” (i)  
16 “receiv[e], from a network device over a data network, a first indication that the first zone player  
17 has been added to a first zone scene comprising a first predefined grouping of zone players  
18 including at least the first zone player and a second zone player that are to be configured for  
19 synchronous playback of media when the first zone scene is invoked,” (ii) “receiv[e], from the  
20 network device over the data network, a second indication that the first zone player has been added  
21 to a second zone scene comprising a second predefined grouping of zone players including at least  
22 the first zone player and a third zone player that are to be configured for synchronous playback of  
23 media when the second zone scene is invoked, wherein the second zone player is different than  
24 the third zone player,” and (iii) “after receiving the first and second indications, continu[e] to  
25 operate in the standalone mode until a given one of the first and second zone scenes has been  
26 selected for invocation.”

27       427. Still further, the foregoing posts do not disclose or suggest any particular  
28 functionality for invoking a “mode” or a “virtual zone,” let alone the claimed functionality whereby

1 a “zone player” is programmed with the capability to (i) “after the given one of the first and second  
2 zone scenes has been selected for invocation, receiving, from the network device over the data network,  
3 an instruction to operate in accordance with a given one of the first and second zone scenes respectively  
4 comprising a given one of the first and second predefined groupings of zone players” and (ii) “based  
5 on the instruction, transitioning from operating in the standalone mode to operating in accordance with  
6 the given one of the first and second predefined groupings of zone players such that the first zone  
7 player is configured to coordinate with at least one other zone player in the given one of the first and  
8 second predefined groupings of zone players over a data network in order to output media in synchrony  
9 with output of media by the at least one other zone player in the given one of the first and second  
10 predefined groupings of zone players.”

11       428. In this way, the foregoing posts appear to express nothing more than mere hope that  
12 Sonos would someday invent a “zone scene” functionality that had not been achieved before. *See*,  
13 e.g., GOOG-SONOS-WDTX-INV-00015877 at 877 (“I would like to setup say Morning mode  
14 ....”); GOOG-SONOS-WDTX-INV-00015870 at 870 (“Why can’t I have a virtual zone ....  
15 PLEASE!”).

16       429. Dr. Schonfeld also attempts to rely on Mr. Lambourne’s testimony to conclude that  
17 “the users requesting ‘virtual zones’ and ‘macro’ or ‘preset’ groups disclosed the ‘zone scene’  
18 concept.” Schonfeld Op. Report at ¶ 231. However, Mr. Lambourne testified that his claimed  
19 “zone scene” functionality addressed the need of the foregoing users; not that the foregoing users  
20 disclosed the claimed “zone scene” functionality. Lambourne Dep. Tr. at 131:3-7 (“Did you  
21 invention address the concerns of these users through adding Zone Scenes? ... THE WITNESS:  
22 Yes. My invention would describe the need described here.”). In fact, as discussed above, Mr.  
23 Lambourne already memorialized his thoughts on his “zone scene” concept at least 4 months  
24 before the foregoing post by user “JeffT.” *Supra* ¶¶ X-X.

25       430. Because the Sonos Forums reference fails to disclose or suggest a “first zone player”  
26 that is programmed with the functional capability required by limitation 1.6, even if a POSITA in  
27 2005-06 were to modify Sonos’s 2005 system to incorporate the discussion in the identified user  
28 posts from Sonos Forums, it is my opinion that the ZonePlayers in such a modified Sonos system

1 still would not have the capability required by limitation 1.6 – let alone other capability that was  
2 absent from the ZonePlayers in Sonos's 2005 system.

3       431. Fourth, Dr. Schonfeld has failed to provide any explanation as to how Sonos's 2005  
4 system would have actually been modified to combine it with the subject matter discussed in the  
5 identified user posts from Sonos Forums – let alone how that alleged combination would have  
6 achieved the claimed invention.

7       432. Fifth, Dr. Schonfeld fails to provide any explanation or evidence as to how or why  
8 these two user posts from the Sonos Forums would have motivated a POSITA in 2005-2006 to  
9 modify Sonos's 2005 system in any way – let alone would have motivated a POSITA in 2005-  
10 2006 to modify Sonos's 2005 system in the specific ways that would have been required in order  
11 to achieve the claimed invention (which go well beyond what is discussed in the Sonos Forums  
12 posts). *See* Schonfeld Op. Report at ¶ 230.

13       433. I have also seen evidence of affirmative reasons why a POSITA would not have  
14 been motivated to modify Sonos's 2005 system in view of the identified user posts from the Sonos  
15 Forums. For instance, as explained above, I have seen other user posts from the Sonos Forums  
16 casting doubt as to how overlapping “zone scenes” would have worked in Sonos's system. For  
17 example, even after the claimed conception date, a post from “Majik” on April 18, 2006 suggests  
18 that there were concerns about potential “side-effects” if “zones [can] be allowed to be in more  
19 than one group.” GOOG-SONOS-WDTX-INV-00015870 at 871. I have also seen evidence from  
20 other Sonos threads suggesting that, even in 2016, users thought overlapping “zone scenes” would  
21 have been “logically impossible” to implement in Sonos's system. SONOS-SVG2-00226916 at  
22 916. Given this skepticism, it is my opinion that a POSITA would have been dissuaded from  
23 modifying Sonos's 2005 system in view of the identified user posts from the Sonos Forums.

24       434. Finally, because there is no evidence that a POSITA in 2005-06 would have been  
25 motivated to modify Sonos's 2005 system in view of the identified user posts from the Sonos  
26 Forums, it appears that Dr. Schonfeld has used the asserted claims as a roadmap to reach his  
27 conclusion that a POSITA would have found the claimed invention obvious based on Sonos's 2005  
28 system in combination with the Sonos Forums, which I understand to be improper.

1       435. Thus, for these reasons, it is my opinion that claim 1 of the '885 Patent is not  
2 rendered obvious by Sonos's 2005 system in combination with the Sonos Forums.

3           **10. Sonos's 2005 System Combined with Nourse**

4       436. In his Opening Report, Dr. Schonfeld opines that claim 1 of the '885 Patent is  
5 rendered obvious by Sonos's 2005 system in combination with Nourse. *See* Schonfeld Op. Report  
6 at ¶¶ 6, 184, 243. I disagree – in my opinion, claim 1 of the '885 Patent is not rendered obvious by  
7 Sonos's 2005 system in combination with Nourse, and Dr. Schonfeld's opinion to the contrary is  
8 flawed for several reasons.

9       437. First, I understand that Nourse was cited on the face of the '885 Patent. '885 Patent  
10 at 4. As such, I understand that Nourse was considered by the USPTO during prosecution of the  
11 '885 Patent, and the USPTO allowed the '885 Patent (including claim 1) to issue over Nourse.  
12 Since the USPTO already considered Nourse, I understand that Dr. Schonfeld and Google have  
13 the added burden of overcoming the deference that is due to a qualified government agency, such  
14 as the USPTO, that is presumed to have properly done its job based on its expertise in interpreting  
15 references, its understanding of the level of ordinary skill in the art, and its duty to issue only valid  
16 patents. However, it is my opinion that Dr. Schonfeld failed to satisfy this added burden.

17       438. Second, Dr. Schonfeld is only relying on Nourse to make up for the deficiencies of  
18 Sonos's 2005 system with respect to limitation 1.7, but as explained above, Sonos's 2005 system  
19 did not meet several other limitations of claim 1, including limitations 1.6, 1.8, 1.9, and 1.10. Thus,  
20 even if one were to accept Dr. Schonfeld's opinions regarding the combination of Sonos's 2005  
21 system with Nourse, claim 1 still would not be rendered obvious by that combination.

22       439. Third, Nourse fails to disclose or suggest a "first zone player" that is programmed  
23 with the functional capability required by limitation 1.7 for various reasons.

24       440. As discussed above, Nourse discloses a conventional "*centralized* speaker system  
25 that allows multiple speakers connected to a centralized amplifier speaker line to be monitored and  
26 controlled from a central location via a master/slave protocol." Nourse at Abstract; *see also, e.g.,*  
27 *id.* at 2:18-20 ("In accordance with the present invention, a speaker system is provided having  
28 distributed speakers and amplifiers and centralized speaker monitoring and command control."),